

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, MAY 12, 2011**

Commissioner Blaine R. Young, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, May 12, 2011, at 10:05 a.m. Present were Commissioners C. Paul Smith, *Vice President*, Billy Shreve, David Gray and Kirby Delauter. Also present were Mr. Dave Dunn, Assistant County Manager and Ms. Patti Morrow, Recording Secretary.

(Official Minutes of the Board of County Commissioners' meetings are kept on file in the County Manager's Office; the meetings are also video recorded. Approved minutes are available on the county's website. To receive a copy of meetings recorded on videotape or DVD, please contact the Board of County Commissioners at 301-600-1100 or visit the county's website at www.FrederickCountyMD.gov.)

PLEDGE OF ALLEGIANCE

The meeting began with the Pledge of Allegiance.

COMMISSIONER COMMENTS

Commissioner Smith noted that he and Commissioner Gray had attended an award ceremony for foster families in Frederick County.

Commissioner Shreve commented on the town hall meeting on illegal immigration to be held this evening.

Commissioner Delauter remarked he had attended a function where he had heard Congressman Steve King of Iowa speak.

Commissioner Young indicated he had attended a Board of Elections meeting that was held recently.

Update of Board of County Commissioners' Administrative Actions – Commissioner Blaine R. Young and Barry Stanton, Office of the County Manager

Commissioner Young and Mr. Stanton briefed the public on the Board's recent administrative actions.

WORKSESSION

Mental Health Month Proclamation

The Board proclaimed the month of May as Mental Health month.

AGENDA BRIEFING

Staff reviewed with the Board the following items scheduled for a public hearing on Tuesday, May 17, 2011, at 7:00 p.m.

- Revised Personnel Rules for Citizens Care and Rehabilitation Center (CCRC) and Montevue Assisted Living – Dr. Sonja Sperlich, Citizens Nursing Home Board of Trustees

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- Zoning Text Amendment #ZT-11-01 – Proposed Ordinance to Amend Certain Sections of the Frederick County Code – Eric Soter and Shawna Lemonds, Community Development Division

CONSENT AGENDA

The following items were presented on the consent agenda:

BID AWARD

- Purchasing Memo #11-177 - Bid #11-CP-73, Full Depth Reclamation of Various Roadways
Award to: C.J. Miller, LLC
Award amount: Estimated total of \$779,735.10

BUDGET TRANSFER

- #BT-11-154, Housing, Citizens Services Division

GRANTS

- Governor's Office of Crime Control and Prevention – 2011 Body Armor for Local Law Enforcement (BARM) Grant Program – Marty Gallagher, Sheriff's Office
- Continuing Education Grant and Budget Transfer for Frederick County Public Libraries – Darrell Batson, Frederick County Public Libraries

Mr. Tom Meunier, Public Works Division, commented on purchasing memo #11-177 – full depth reclamation of various roadways. Commissioner Delauter requested staff to provide an annual report on roadway maintenance.

Commissioner Smith moved to approve the consent agenda as presented. Commissioner Shreve seconded the motion that passed 5-0.

ADMINISTRATIVE BUSINESS

Work Change Directive No. 12 (WCD #12) – Citizens Care and Rehabilitation Center (CCRC)/ Montevue Assisted Living (MAL) – Dave Ennis, Public Works Division

Mr. Tom Meunier, Public Works Division, participated in the discussion regarding the request for WCD#12 which would authorize the contractor on the CCRC/MAL project to proceed with work required under Architect's Supplemental Instruction 58 in an amount not to exceed \$75,000.

Commissioner Smith moved to approve the WCD#12 as presented. Commissioner Gray seconded the motion that passed 5-0.

(Commissioner Delauter left the room at 10:40 a.m.)

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**Change Order Policy Revisions – Chuck Nipe, Public Works Division and Hal Good,
Finance Division**

Mr. Nipe presented the requested revisions to the change order policy.

Commissioner Gray moved to approve the revisions as presented with an effective date of July 1, 2011. Commissioner Shreve seconded the motion that passed 4-0 with Commissioner Delauter absent.

**Reimbursement of Permit and Inspection Fees for Carroll Manor Fire Company Station
28 – Doug Orner, Office of the County Manager and Ed Arnold, Carroll Manor Volunteer
Fire Department**

Mr. Orner and Mr. Arnold presented the request from the Carroll Manor Fire Company Station for a reimbursement for fees paid in the amount of \$11,959.06 for permit and inspection fees associated with the renovations required by the county to come into compliance with water and sewer.

Mr. Mike Gastley, Finance Division, commented on the issue.

(Commissioner Delauter returned to the room at 10:50 a.m.)

Commissioner Gray moved to accept the recommendation from the Office of Volunteer Fire and Rescue Services to reimburse fees paid in the amount of \$11,959.06 to the Carroll Manor Fire Company and the associated budget transfer to take the money from the contingency fund. Commissioner Shreve seconded the motion that passed 4-0-1 with Commissioner Delauter abstained.

**Distribution of the Senator William H. Amoss Funds to the Fire Companies – Tom
Owens, Fire and Rescue Services Division and Doug Orner, Office of the County
Manager**

Mr. Tom Owens and Mr. Steve Leatherman, Fire and Rescue Services Division, Mr. Mickey Fyock, Frederick County Volunteer Fire and Rescue Services Division and Mr. Mike Gastley, Finance Division, commented on the Amoss Funds.

Commissioner Young moved to approve the 2011 Amoss funds be distributed equally with half-shares to go to the substations and in 2012 the funds would be distributed equally amongst the 30 companies that show a demonstrated need with those companies dedicated for county apparatus. Commissioner Gray seconded the motion that passed 5-0.

It was indicated staff would continue to work on policies and procedures and the volunteer companies would be notified.

Impact Fee Annual Report – Kelly Weaver, Finance Division

Ms. Weaver presented the report as required by the county code prior to adoption of the annual budget.

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No action was taken as this item was informational.

**Finalize the FY 2012 – 2017 Capital Improvements Program and FY 2012 Capital Budget
– Kelly Weaver, Finance Division**

Ms. Weaver reviewed the major changes to the CIP and Capital Budget.

Mr. Gastley, Finance Division, commented.

It was indicated staff was waiting for a final letter from the Board of Education regarding \$800,000 to be designated for a portion of the design of North Frederick Elementary School.

The FY 2012 Capital Budget and FY 2012 – 2017 CIP would be taken to adoption on June 2, 2012 as presented.

WORKSESSION

**Opening Invocation – John Mathias, Office of the County Attorney and Ragen Cherney,
Office of the County Manager**

Mr. Mathias presented a briefing on the opening of a public meeting with a prayer or invocation and what policies would apply.

Public comment was heard from:

- Reverend Paul Munday, Frederick Church of the Brethren
- Rockefeller Ludwig Tugman, Pray at the Pump

Commissioner Young moved to initiate the invocation policy similar to the Chesterfield County, Virginia policy. Commissioner Shreve seconded the motion that passed 3-2 with Commissioners Smith and Gray opposed.

It was noted staff would obtain an e-mail list to contact religious leaders from the Religious Consortium.

Commissioner Young moved to modify the original motion to include Thursday meetings as well as the evening public meetings. Commissioner Shreve seconded the motion that passed 3-2 with Commissioners Smith and Gray opposed.

Staff would bring the invocation policy back to the Board at a future meeting for formal approval.

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COMMISSIONER COMMENTS

Commissioner Young commented on the town hall meeting regarding illegal immigration to be held this evening.

Commissioner Young congratulated Dave Dunn, Assistant County Manager, on his first meeting prior to his becoming Acting County Manager.

PUBLIC COMMENTS

None.

QUESTIONS – PRESS

None.

CLOSED SESSION

Commissioner Smith moved to go into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a) (1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals; (3) To consider the acquisition of real property for a public purpose and matters directly related thereto; (7) To consult with counsel to obtain legal advice on a legal matter; andn (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Delauter seconded the motion that passed 5-0.

ADJOURN

The meeting adjourned at 1:45 p.m.

Patricia A. Morrow
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, MAY 12, 2011**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals.

Motion:

Commissioner Smith moved to go into closed session in accordance with Maryland Annotated Code State Government Article §10-508(a) (1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals. Commissioner Delauter seconded the motion that passed 5-0.

Time and Location:

12:50 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To consider a personnel appeal by a county employee.

Patricia Morrow
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, MAY 17, 2011,
FOLLOWING THE CLOSED MEETING OF THURSDAY, MAY 12, 2011**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals.

Motion:

Commissioner Smith moved to go into closed session in accordance with Maryland Annotated Code State Government Article §10-508(a) (1) To discuss: (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or (ii) Any other personnel matter that affects one or more specific individuals. Commissioner Delauter seconded the motion that passed 5-0.

Time and Location:

12:50 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

B. Stanton, J. Mathias, M. Gastley, D. Dunn and P. Morrow.

Topic Discussed:

To consider a personnel appeal by a county employee.

Action Taken:

The Board directed staff to deny the appeal.

Patricia Morrow
Recording Secretary

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**FORM OF STATEMENT FOR
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STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(3) To consider the acquisition of real property for a public purpose and matters directly related thereto.

Motion:

Commissioner Smith moved to go into closed session in accordance with Maryland Annotated Code State Government Article §10-508(a) (3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Delauter seconded the motion that passed 5-0.

Time and Location:

12:50 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

The acquisition of real property for county road purposes.

Patricia Morrow
Recording Secretary

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STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(3) To consider the acquisition of real property for a public purpose and matters directly related thereto.

Motion:

Commissioner Smith moved to go into closed session in accordance with Maryland Annotated Code State Government Article §10-508(a) (3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Delauter seconded the motion that passed 5-0.

Time and Location:

12:50 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

B. Stanton, D. Dunn, J. Mathias, M. Gastley, T. Meunier, R. McCain, C. Chamberlain, R. Shen, J. Stitt, R. Santangelo and P. Morrow.

Topic Discussed:

The acquisition of real property for county road purposes.

Action Taken:

The Board gave direction to staff regarding the acquisition of property for county road purposes.

Patricia Morrow
Recording Secretary

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STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

Motion:

Commissioner Smith moved to go into closed session in accordance with Maryland Annotated Code State Government Article §10-508(a) (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Delauter seconded the motion that passed 5-0.

Time and Location:

12:50 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss with the county's attorneys the possible resolution of pending lawsuits. (Two items)

Patricia Morrow
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STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

Motion:

Commissioner Smith moved to go into closed session in accordance with Maryland Annotated Code State Government Article §10-508(a) (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. Commissioner Delauter seconded the motion that passed 5-0.

Time and Location:

12:50 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

B. Stanton, D. Dunn, J. Mathias, M. Gastley, M. Marschner, R. Santangelo and P. Morrow.

Topic Discussed:

To discuss with the county's attorneys the possible resolution of pending lawsuits. (Two items)

Action Taken:

No action was taken on either items.

Patricia Morrow
Recording Secretary